

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION JOINT APPROPRIATIONS SUBCOMMITTEE ON HEALTH & HUMAN SERVICES

Call to Order: By **CHAIRMAN DAVE LEWIS**, on January 24, 2001 at 8:00 A.M., in Room 152 Capitol.

ROLL CALL

Members Present:

Rep. Dave Lewis, Chairman (R)
Sen. John Cobb, Vice Chairman (R)
Rep. Edith Clark (R)
Rep. Joey Jayne (D)
Sen. Bob Keenan (R)
Sen. Mignon Waterman (D)

Members Excused: None.

Members Absent: None.

Staff Present: Robert V. Andersen, OBPP
Pat Gervais, Legislative Branch
Sydney Taber, Committee Secretary
Connie Welsh, OBPP

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: Disabilities Services - Public
Testimony
Executive Action: None.

{Tape : 1; Side : A; Approx. Time Counter : 0.3 - 38}

Pat Gervais, Legislative Fiscal Division (LFD), highlighted the issues in the Disability Services Division (DSD) budget: provider and wage rate increases of \$6.1 million; annualization of provider rate and wage increases of \$3.6 million; annualization of the refinancing effort to move individuals from institutions to communities of \$3.5 million; and fully funding the population of the Montana Development Center (MDC) for \$2.8 million.

Ms. Gervais went over the issues involved in the Health Care Finance Administration (HCFA) review of the DSD administered Home

and Community Based Service Waiver. The initial findings include concerns with: the provider selection process; allocation of the waiver resources; and situations that may compromise the health and welfare of clients. Additionally, the waiver amendment submitted to the Division for community supports had not been approved by HCFA. HCFA also provided direction that the Division should discontinue expansion of the waiver services for adults.

Ms. Gervais reviewed the budget requests and the DSD Future Study recommendations to the Children, Families, Health and Human Services Committee.

Ms. Gervais made suggestions to the Committee on steps the Legislature might wish to take concerning these issues.

Ms. Gervais went over the Title XX block grant used for DD. Montana has placed all Title XX funds in the DSD area. TANF funds transferred to Title XX must be used to serve families at or below 200% of the federal poverty level.

CHAIRMAN LEWIS asked if the federal medical assistance participation rate (FMAP) was based on the per capita income relative to other states. **Connie Welsh, Office of Budget and Program Planning**, stated that this is correct.

Joe Mathews, Administrator of the Disability Services Division, began his response to the LFD issues.

{Tape : 1; Side : A; Approx. Time Counter : 38 - 48.3}

In response to questions regarding a waiver for state-wideness, **Maggie Bullock, Developmental Disabilities Program Director**, explained that it is a waiver that allows the state to provide services only in parts of the state. Should there be this sort of waiver, the Department would have to do something to ensure that those providers already providing services via contract would continue to be a part of the waiver. Another result could possibly be the movement of populations to communities providing the services. The Department is also investigating cost sharing, limiting certain services, and narrowing the eligibility definition. **Ms. Bullock** feels that the Department will need to redo the existing waiver as well.

{Tape : 1; Side : B; Approx. Time Counter : 0.3 - 2.1}

Ms. Bullock distributed a letter from HCFA regarding design and operation of waivers **EXHIBIT(jhh19a01)** and a draft work plan **EXHIBIT(jhh19a02)**.

{Tape : 1; Side : B; Approx. Time Counter : 2.1 - 13.3}

Responding to **SEN. WATERMAN's** request for discussion on the Department's stand on commitment laws, **Mr. Mathews** stated that it requires a petition and court commitment. The commitment law in is tight, so it is not easy to get into an institution.

Mr. Mathews went over the HCFA review process, appeal process, and the corrective actions that may result. Montana has not been in a situation when there is a threat that money will be taken away from the state.

SEN. WATERMAN stated that she senses that this is not the ordinary "heads up", but that HCFA is pushing harder for more immediate results. Is it a fair assessment? **Mr. Mathews** concurred with that view of the situation. There have been more civil rights complaints because of Olmstead and the Americans with Disabilities Act (ADA), which is causing more activity in HCFA.

Mr. Mathews stated that he feels that the state has a strong waiver, that it has done things philosophically and programmatically required by law. It is down to how much and how fast and ensuring that individuals are making informed choices.

{Tape : 1; Side : B; Approx. Time Counter : 13.3 - 44.5}

Mr. Mathews continued that the Division has been deinstitutionalizing individuals, and that by the end of the biennium, those 32 individuals identified last session will be out in the community. At the same time, there has been an increase in commitments at MDC. The budget projections were not realized since the population at MDC will not have changed.

Mr. Mathews provided data on institutional census comparisons and costs in four neighboring states **EXHIBIT(jhh19a03)**. **SEN. WATERMAN** asked if all those identified as individuals that should be moved to the community have been moved out of the institutions. **Mr. Mathews** explained that the Division is examining the methodology used to determine who should be moved into the community and will probably refer more not fewer individuals.

The state is in a dilemma in trying to feel its way through Olmstead. It must develop a plan with a vision of how the delivery system will look and a vision of moving people out at a reasonable pace. **CHAIRMAN LEWIS** asked for the explanation of costs of Eastmont versus the costs at other facilities. **Mr. Mathews** responded that MDC has a more diverse population while Eastmont has patients that are a near total care population. He distributed a sheet showing the costs of the populations **EXHIBIT(jhh19a04)**. As the numbers of patients go down, costs go up at the facility. Much of the cost is in staff to client

ratios. Both Eastmont and MDC are having difficulty in staffing the facilities.

Mr. Mathews began his analysis of the Title XX and TANF dilemma. When TANF began, the social service block grants to states were reduced. All the social service block grant comes to DSD, therefore, there are revenue shortfalls for DSD when the block grant is reduced **EXHIBIT(jhh19a05)**.

{Tape : 1; Side : B; Approx. Time Counter : 44.5 - 45.8}

CHAIRMAN LEWIS asked if a switch could be done to move Title XX into public assistance.

{Tape : 2; Side : A; Approx. Time Counter : 0.3 - 7.5}

In discussion of moving all of the clientele into the community and closure of a facility, **Mr. Mathews** reviewed the costs that would be incurred: start up costs for group homes, severance packages for employees, relocation costs, 6 months of health insurance coverage, employee assistance - all significant one time costs **EXHIBIT(jhh19a06)**. It could possibly cost \$90,000 per individual to move people from the institution to a community setting. **Mr. Mathews** stated that the biggest question for the Committee to consider in this issue is whether or not the providers could do this. The provider community is already stretched to the limit, and they would probably indicate that there would need to be significant rate increases in order for them to get direct care staff to provide quality services.

{Tape : 2; Side : A; Approx. Time Counter : 7.5 - 12.5}

Ms. Gervais suggested that the Committee may wish to ask the Department for information on potential use of Montana Telecommunications Access Program (MTAP) funding in Vocational Rehabilitation. **Mr. Mathews** stated that he does not believe that his Division is able to tap into that funding since it is targeted toward for a specific group. There is a third party match in Vocational Rehabilitation. The only way that VR could accept funding is if it were known and understood that it is used as match to serve all clients.

{Tape : 2; Side : A; Approx. Time Counter : 12.5 - 30.4}

Ms. Gervais distributed the decision packages related to DSD **EXHIBIT(jhh19a07)**, and **Gail Briese-Zimmer, Financial Services Bureau**, reviewed the budget request proposals.

Ms. Gervais explained the LFD issue in regard to DP 31, annualize the direct care wage increase from the 1999 session. The 1999 legislation included language in HB 2 that stated that expenditures for all provider rate increases approved by the Legislature must be limited to the dollar amounts appropriated

rather than a percentage increase. DSD was appropriated \$910,000 for direct care wages; the Division stated that due to an error in calculating the number of direct care FTE, 235 FTE were not included in the funding received in the 1999 session. The estimated cost of direct care wages for FY00 were greater than the appropriated amount. The Division funded the direct care wage increases in excess of the appropriation within its base budget. The funding from the base budget appears to violate HB 2 language restricting all rate increases to the dollar amount appropriated.

{Tape : 2; Side : A; Approx. Time Counter : 30.4 - 50.6}

Mr. Mathews explained that the number of direct care providers was undercounted. They felt that they had an obligation to the providers to pay the direct care staff, so they did it. **REP. JAYNE** asked if the figures on the current decision package are correct. **Ms. Briese-Zimmer** said that the numbers reflect only the amount authorized by the Legislature for FY01. The additional funding for the missed staff will come from the base.

Ms. Gervais pointed out that the proposed refinancing, which resulted in movement of individuals to the community in the 1999 biennium, cost no additional general fund. As a result of the action taken then, there is additional cost in this biennium. In the process of preparing the budget analysis, there was no documentation where the Committee last session was informed of potential ongoing costs, so one question is whether or not the Committee understood this ongoing general fund need or whether it perceived the general fund allowed for refinancing within the biennium would be sufficient to sustain those activities from through the next biennium. **SEN. COBB** said that his impression of the refinancing was that it would all be taken care of. **Ms. Welsh** commented that historically there has not been an increase as there was in the last biennium.

{Tape : 2; Side : B; Approx. Time Counter : 0.3 - 12.4}

Ms. Gervais went over the decision package revisions made in Governor Martz's budget on Exhibit 7. **SEN. COBB** asked **Ms. Gervais** what DP 119 went down to. She responded that it is reduced from 5% FY00 to 4.6% and 10% FY03 to 9.5% increase. **Ms. Briese-Zimmer** distributed a worksheet with the estimated hourly increases, including the mandated provider benefits **EXHIBIT(jhh19a08)**. **SEN. COBB** asked **Ms. Briese-Zimmer** what a 1% across the board increase for provider rates would cost, she said that she would get that information for him.

{Tape : 2; Side : B; Approx. Time Counter : 12.4 - 16.}

There was more discussion on whether the greater direct care provider wage increase should be in the first or second year of the biennium.

{Tape : 2; Side : B; Approx. Time Counter : 16 - 23.5}

The Committee revisited closure of Eastmont. **Mr. Mathews** went over the state comparison, old studies done on closure at Eastmont, personnel severance, and other related issues. In moving people out of Eastmont, the Division budgets about \$75,000 per person and an extra \$2,000 for personal needs. In moving people out of Eastmont, the Division set aside \$100,000 from the refinance for each of the congregate settings that they moved people into. The \$100,000 is for construction costs; the provider comes through with a financing mechanism to pick up the balance.

{Tape : 2; Side : B; Approx. Time Counter : 23.5 - 28.1}

Ms. Gervais distributed handouts: **EXHIBIT(jhh19a09)**, information on social security disability programs; **EXHIBIT(jhh19a10)**, a memo from **SEN. KEENAN** to **Director Gray** and the Department; **EXHIBIT(jhh19a11)**, an executive planning process request form; **EXHIBIT(jhh19a12)**, targeted case management services; **EXHIBIT(jhh19a13)**, DD program standards; **EXHIBIT(jhh19a14)**, qualified provider standards for delivery of DD services to children; **EXHIBIT(jhh19a15)**, memo on CHIP to **Lois Steinbeck**; **EXHIBIT(jhh19a16)**, memo on pharmacy issues to **Lois Steinbeck**; **EXHIBIT(jhh19a17)**, memo from **Randy Poulsen** to the Committee; and **EXHIBIT(jhh19a18)**, pamphlet on wage parity.

PUBLIC TESTIMONY ON DISABILITIES SERVICES

{Tape : 2; Side : B; Approx. Time Counter : 23.5 - 48}

{Tape : 3; Side : A; Approx. Time Counter : 0.3 - 4.8}

Wally Melcher, representing **Developmental Disability System Advocacy Committee**, gave a brief history of community providers of DD services and spoke on the problems that providers have recruiting and retaining quality direct care givers. Montana Association of Independent Disabilities Services (MAIDS) had a study done on wages. There is a 23% entry level gap between the wages of direct care workers in the community and those in the state system and for those who have been worked longer, the gap increases to 38%. Average turnover across the state in direct service employees averages 120%. Direct service people are averaging three to six months before leaving, which is a disruptive influence in the lives of those being cared for.

There is no rate increase in the current budget for DD providers; the money in the budget is for direct service. He asked that the

Committee consider a rate increase as well as that in the budget for direct care people.

{Tape : 3; Side : A; Approx. Time Counter : 4.8 - 11.2}

Brody Mall, CEO of Mission Mountain Enterprises in Lake County, stated that his organization has an overall 54% turnover rate with 100% turnover in group homes. The individuals in the group residences are extremely fragile many of them non-verbal, wheelchair bound, and all requiring constant monitoring and needing familiar staff. It is crucial that there is continuity and consistency in the services for these individuals, but the inability to pay competitive wages with benefits is creating high turnover and staffing shortages. He also spoke for the need to pay mid-management more than they are receiving and requested Committee support for provider rate increases.

{Tape : 3; Side : A; Approx. Time Counter : 11.5 - 19.8}

Rob Tallon, Executive Director of REACH Inc. of Bozeman, testified about the crisis in direct care staffing for organizations that support DD in Montana. Montana has failed to fund the non-profits at a level enabling employees to make a living wage. The historical under funding has been exacerbated by the last eight years of funding less than the consumer price index (CPI). During that time period, the CPI has risen 25.5% while funding in the state increased only 13%. It is this consistent under funding that has hampered the DD system's ability to retain and recruit support professionals, which has eroded the quality of services provided to Montanans with disabilities. The difference in the wage rates between direct care workers in private provider organizations and state institutions was addressed and the need for parity stressed. **Mr. Tallon** went over the wage rates that direct support professionals receive; turnover rates; recruitment difficulties; training costs when turnover is high; and the potential for error due to constant turnover. He asked for support of parity for the workers in the community and those in the state system.

{Tape : 3; Side : A; Approx. Time Counter : 19.8 - 23.7}

Ronald Lemseg, a group home resident, stated that he has good care, but employees need pay increases in order to keep them there and in order to ensure that people like him receive quality care.

{Tape : 3; Side : A; Approx. Time Counter : 23.7 - 25.8}

Rita Schillingham, Director of Job Connection in Billings, testified about the need for adequate wages for the people working in the system. It was easy to attract and retain qualified staff because there were so few jobs. That has changed, and it is increasingly difficult to attract individuals

to jobs with high responsibility and stress levels for such poor pay. Individuals that work in this system carry great responsibility and should be paid for it. She asked the Committee to support equity for direct care staff.

{Tape : 3; Side : A; Approx. Time Counter : 25.8 - 27.9}

Ardis Stockton, Executive Director of Residential Support Services in Billings, stated that turnover is at above 55% and she cannot keep the 11 group homes for which she is responsible fully staffed. Without adequate staffing, clients are unable to get out into the community or receive needed medical supports. Because of the constant turnover, there are not enough experienced staff members to train new staff. She asked the Committee to support wage parity for DD direct care staff.

{Tape : 3; Side : A; Approx. Time Counter : 27.9 - 31.1}

Vickie Poynter, CEO of Flathead Industries in Kalispell and Little Bitterroot Services of Plains, stated that at Flathead Industries they average 5 vacant positions daily. The initial cost of employment is between \$600 and \$700 for background checks and the paperwork. If they are lucky, that employee may stay with them 6 months at a cost of between \$2,000 to \$3,000. There is a 90% turnover rate in the residential services program. As industry comes into Kalispell with competitive jobs, they are having an even harder time finding individuals to work for \$7 an hour. She encourages wage parity for direct care staff.

{Tape : 3; Side : A; Approx. Time Counter : 31.1 - 33.3}

There was discussion over the changes in employment conditions, and the impact that this has on health care. There is also competition between the direct care service providers, nursing homes, and personal care attendants in private homes. People are choosing the least stressful situation, which pays more and offers flexibility.

{Tape : 3; Side : A; Approx. Time Counter : 33.3 - 35}

Susan Dow, representing Step Inc. of Billings, stated that there is a problem between care providers, but a greater problem in her community is competition with the local school districts and state employees. The primary issue with employees is adequate rates and adequate wages. There are at least seven positions daily that they cannot find people to fill. She asked the Committee for their support.

{Tape : 3; Side : A; Approx. Time Counter : 35 - 40.4}

CHAIRMAN LEWIS asked where the providers think that the competition is coming from. **Rita Schillingham** responded that employees go where they can get enough to pay the rent. Every human service agency is having difficulty in finding staff.

There is a tremendous responsibility on direct care staff, and they receive small reward for it.

{Tape : 3; Side : A; Approx. Time Counter : 40.4 - 42.8}

Mr. Mall stated that he is losing employees to other industry, personal care, and nursing homes. He stressed the importance of good management in helping to iron out some of the difficulties that are experienced in trying to retain staff.

{Tape : 3; Side : A; Approx. Time Counter : 42.8 - 48.6}

Rick Thompson, Director of Hi-Line Home Programs in Glasgow, stated that his business does home-based services for seven rural counties, and is the sixth or seventh largest employer in the area. Up until the last three years, it had not experienced much turnover, but since then it has begun to experience the turnover. Employees are recruited away by school districts, mental health providers, home health care providers, Indian Health Services, Tribal Services, all of which can pay significantly more than Hi-Line Home Programs can afford to pay. As a result, his business, which started as a disability services provider, has expanded to become a multi-faceted provider of all home-based services. They deal with child care, food programs, family preservation programs, trying to survive administratively to ensure provision of adequate compensation to the professional staff.

{Tape : 3; Side : A; Approx. Time Counter : 48.6 - 51.6}

{Tape : 3; Side : B; Approx. Time Counter : 0.2 - .8}

Fran Sedowski, Executive Director of Missoula Developmental Service Corporation in Missoula, stated that they average about 12 employee openings a day for residential services. Employee placements in day services are usually filled because they are more desirable Monday through Friday jobs. The up-front cost for the recruitment of new staff members is a minimum of \$600, which does not include the continual training that they receive. The non-tangible cost of turnover is the cost in client trust. Most of the clients are non-verbal and require constant intensive care, which requires training in such things as care for diabetes, colostomy and tracheotomy care. Many demands are placed on these employees and while they may love their work and clients, many employees are going out of the state where they receive better pay to do the same work. Missoula is a high cost of living environment, and it is difficult to keep staff. She requested that the Committee support wage parity.

{Tape : 3; Side : B; Approx. Time Counter : 0.8 - 6.7}

Sharon Odden, Vice President of Services for Easter Seals/Good Will in Great Falls, added her agreement with everything that had already been said on the wage parity issue, but also asked for rate increases. She said that she is having difficulty finding

employees with good work skills and work ethics. Her organization has also suffered from an inability to provide health insurance to its employees. Another cost that the organization is seeing is an aging clientele, which requires more attention. The staff-client ratio for which it is paid has not changed. They are providing services on a one on one rate without receiving reimbursement for those costs.

In further discussion, **SEN. WATERMAN** asked **Ms. Odden** if she knew how many of her staff were able to purchase insurance with the money that they had been given. **Ms. Odden** responded that about 70% were able to purchase insurance. Every year they had struggled with providing insurance because the employees are older with high cost needs. The insurance rates that they were offered was \$700 per month for the individual and to insure the family was astronomical.

{Tape : 3; Side : B; Approx. Time Counter : 6.7 - 11.}

Rhoda Miller, CEO for a non-profit corporation providing services in Billings, Red Lodge, Hardin, and Lewistown, requested support for wage parity for direct care staff. Her turnover is not as high as in other areas, but it has been increasing in the past six months. If people only stay six months, then there is a continual need and cost to train. Another result of turnover is in the behavior of the clients, who have challenging behaviors and intensive needs, and require stability and structure in their care. It requires employees who are trained to handle such aggressive behavior.

{Tape : 3; Side : B; Approx. Time Counter : 11.6 - 14.1}

Judith Herzog, Director of REM Montana in Billings, offered her support for all prior provider testimony. Wage parity is vital to prevent staff turnover, which directly affects the quality of staff and services and the safety of those under their care. REM provides supports to people with significant behavioral challenges. It has several intensive group homes, and the turnover rate in them is 54%. There have been significant safety issues directly related to the inability to attract qualified staff. People that are leaving to work elsewhere are going to Costco and Walmart. The applicants that they do receive are not qualified or skilled workers. She requested help from the Committee with the wage parity issue.

{Tape : 3; Side : B; Approx. Time Counter : 14.1 - 18.1}

CHAIRMAN LEWIS queried **Mr. Mall** on the state-wide insurance group that he was involved with. **Mr. Mall** said that there are a group of providers that have pooled together to purchase insurance. Direct care providers are generally not a good group to insure because they have a lot of illnesses so it is difficult to find

good insurance with good rates. **CHAIRMAN LEWIS** asked **Ms. Dow** why her group had not purchased insurance through **Mr. Mall's** group, and she responded that they were turned down.

ADJOURNMENT

Adjournment: 11:10 A.M.

REP. DAVE LEWIS, Chairman

SYDNEY TABER, Secretary

DL/ST

EXHIBIT (jhh19aad)